

## **EXHIBIT 11**

20 MAG 00400

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

In the Matter of a Warrant for Content  
and Other Information Associated with  
the Reddit Accounts with User IDs  
"STRML", "BitMEX\_Haddock",  
"BitMEX\_Stefan", "Bitmex\_Mia,"  
Maintained at Premises Controlled by  
Reddit, USAO Reference No.  
2019R00949

TO BE FILED UNDER SEAL

AGENT AFFIDAVIT

**Agent Affidavit in Support of Application for a Search Warrant  
for Stored Electronic Communications**

STATE OF NEW YORK     )  
                                      ) ss.  
COUNTY OF NEW YORK    )

ELIZABETH A. KUDIRKA, being duly sworn, deposes and says:

**I. Introduction**

**A. Affiant**

1. I am an "investigative or law enforcement officer" of the United States within the meaning of 18 U.S.C. § 2510(7), in that I am a sworn officer of the United States empowered by law to conduct criminal investigations and make arrests for offenses enumerated by 18 U.S.C. § 2516. I have been employed as a Special Agent of the Federal Bureau of Investigation ("FBI") since May 2018. Prior to becoming a Special Agent, I was an Investigative Specialist for the FBI, where I conducted surveillance operations in furtherance of counter terrorism, counterintelligence, criminal, and cyber investigations for three years. As a Special Agent, I attended a 20-week basic field training course where I received extensive training in law, investigative techniques, surveillance, tactics, and firearms. During that course, I received blocks of instruction on complex financial crimes including money laundering and securities fraud. I have also completed FBI web-

email address of each identified U.S. user, and includes email addresses with “.edu” extensions associated with United States colleges and universities. The spreadsheet reflects a total of 347.98 Bitcoin in net revenue earned by BitMEX from the 434 identified U.S. traders. Based on my review of Bitcoin-USD exchange rates available at <https://www.xe.com/currencycharts/?from=XBT&to=USD&view=1Y>, I have learned that on March 7, 2019, 1 Bitcoin closed with a value of \$3,851.62 USD. Accordingly, as of March 7, 2019, the Bitcoin earned by BitMEX from the 434 identified U.S. users was worth approximately \$1,340,289.71 USD.

**BitMEX is Not CFTC Registered and Lacks Adequate Controls**

23. Based on my review of the transcript of a deposition that the CFTC took of Arthur Hayes in or about July 2019 (the “Hayes Deposition”), I have learned, among other facts, that neither BitMEX nor any of its affiliated entities have ever applied to become registered in any capacity with the CFTC.

24. Based on my training and experience in prior investigations, and my review of the Internet Archive website (<https://archive.org/>), I have learned, among other facts, that the Internet Archive is an online library that includes, among other things, archived versions of websites. If a website has been captured by the Internet Archive on a particular date, the version of the website that was in existence on that date is preserved and can be viewed by the public. Not all websites are captured by the Internet Archive, and even websites that are captured may only have one snapshot taken or may have multiple snapshots spanning years of time.

25. Based on my review of archived versions of the registration page of the BitMEX website (<https://www.bitmex.com/register>) available on the Internet Archive, I have learned, among other facts that:

26. Based on my review of the transcript of a deposition that the CFTC took of Greg Dwyer in or about April 2019 (the “Dwyer Deposition”), I have learned the following facts, among others:

- a. Dwyer began working at BitMEX in late 2015. He was the first employee of BitMEX aside from its three co-founders: Arthur Hayes, Sam Reed, and Ben Delo. Dwyer started with BitMEX as the head of business development and during his tenure also supervised customer support. Until the beginning of 2019, Dwyer worked for BitMEX from New York. Before joining BitMEX, Dwyer worked and shared an apartment with Hayes.
- b. From the time that Dwyer joined BitMEX in or about 2015 through the date of his CFTC deposition in or about April 2019, BitMEX did not collect know-your-customer documents when individuals registered for BitMEX accounts and only took steps to verify customer identification if an account was compromised or lost access.<sup>1</sup> As Dwyer described, a customer only needs a first name and last name, an email address, and a password to register for BitMEX, but BitMEX does not take steps upon signup to check the first and last name provided against any form of identification. Based on the information described above, Dwyer appears to be

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<sup>1</sup> When asked about know your customer policies during the Hayes Deposition, Hayes claimed that BitMEX has “risk-based” know-your-customer policies and procedures in which “certain actions by users or customers will trigger [BitMEX] to ask for additional information before they are allowed to continue[] operating on the platform.” Hayes claimed that these risk-based policies are triggered in three specific circumstances: (1) if a customer is flagged as coming from a restricted jurisdiction and challenges that designation; (2) if a customer loses their two-factor authentication code; and (3) if one of the BitMEX founders in reviewing customer withdrawal activity notices “something out of place.” Hayes acknowledged that this process did not apply to all customer accounts and nowhere claimed that BitMEX collected or verified account holder identification across its customer base – data integral to the assessment of risk associated with a particular customer in a “risk-based” KYC program.

mistaken about the fact that BitMEX users needed a first and last name to register with the platform.

27. In or about November 2019, I interviewed a former BitMEX employee (“Witness- 1”)<sup>2</sup>. During those interviews, Witness-1 stated the following, in substance and in part:

- a. Witness-1 is a former employee of BitMEX. In Witness-1’s role at BitMEX, Witness-1 was familiar [REDACTED]. [REDACTED]. Witness-1 was first in communication with employees of BitMEX beginning in or about [REDACTED] and has been in contact with BitMEX employees and/or customers throughout [REDACTED].
- b. During Witness-1’s tenure at BitMEX, BitMEX did not have formal know your customer verification upon customer registration and only attempted to verify accountholder identification in limited situations such as when a customer lost their two-factor authentication or for email changes; BitMEX did not have anti-money laundering policies or controls; BitMEX did not file suspicious activity reports (or “SARS”) with the U.S. government; and BitMEX did not have policies or procedures for identifying transactions subject to U.S. sanctions.

**B. Probable Cause Justifying Search of the Subject Accounts**

28. Based on my review of certain postings by the Subject Accounts on publicly available portions of Reddit and conversations with Witness-1, I have learned the following facts, among others:

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<sup>2</sup> Witness-1 is cooperating with the Government’s investigation [REDACTED]. Further, Witness-1 may face criminal exposure for obstruction; no promises regarding leniency as to any potential charges have been extended to Witness-1.